

**FILED**

DEC 17 2007

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

DARRYEL R. DEERE,

Plaintiff,

vs.

GRADY COUNTY SHERIFF et al.,

Defendants.

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No. CIV-07-82-W

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.  
BY W. H. DEPUTY

**ORDER**

On November 5, 2007, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this matter and recommended that the Court dismiss this matter because plaintiff Darryel R. Deere had failed to exhaust available administrative remedies. Deere was advised of his right to object, and the matter now comes before the Court on Deere's Response to the Court's Recommendation to Dismiss Complaint.

Upon de novo review of the record, the Court concurs with Magistrate Judge Purcell's suggested disposition of this matter. Deere conceded in his initial pleading and thereafter, see Response to the Court's Recommendation to Dismiss Complaint [Doc. 36] at 2, that he had not exhausted his administrative remedies. Under the circumstances, the Court finds that the Motion to Dismiss filed by defendant Grady County Sheriff should therefore be granted. The Court finds that unserved defendants "Paul" and "L.T." should likewise be dismissed sua sponte due to Deere's failure to exhaust administrative remedies. E.g., Aquilar-Avellaveda v. Terrell, 478 F.3d 1223, 1225 (10<sup>th</sup> Cir. 2007).

Accordingly, the Court

(1) ADOPTS the Report and Recommendation filed on November 5, 2007;

(2) GRANTS the Motion to Dismiss filed on October 1, 2007, by defendant Grady County Sheriff and DISMISSES this defendant; and

(3) sua sponte DISMISSES unserved defendants "Paul" and "L.T."

ENTERED this 17<sup>th</sup> day of December, 2007.

  
LEE R. WEST  
UNITED STATES DISTRICT JUDGE